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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/163,041	09/29/1998	DANIEL P. VEDITZ	013.0067	9527

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
WILLETT, STEPHAN F	

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

REMAILED

Office Action Summary	Application No.	Applicant(s)	
	09/163,041	VEDITZ, DANIEL P.	
	Examiner	Art Unit	
	Stephan F. Willett	2141	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 November 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8 and 12-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8 and 12-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because of the informalities noted on the PTO 948. Correction is required.

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim(s) 1-8 is/are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). The claims specify "software package", thus the

software must be stored on a "computer-readable medium needed to realize the computer program's functionality", MPEP 2105.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-8 and 13-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kito et al. with Patent Number 5,946,464 in view of Rogers et al. with Patent Number 5,974,441.

1. Regarding claims 1, 5, 12, 17, 21, 26, 30 and 32, Kito teaches an agent based distributed network. Kito teaches a manifest about a software package as "functions such as schedule, document management and workflow", col. 4, lines 9-33. Kito teaches a content source and functions related to its functionality as "agent clients by which respective users define their agents", col. 4, lines 34-35. Kito teaches said data sources are processed in a network to achieve their expected functionality as "on the basis of the user's input, prepares agent definition information and transmits the prepared to the agent generation unit of the agent server through the network", col. 5, lines 23-26. Kito teaches the invention in the above claim(s) except for explicitly teaching a browser. In that Kito operates to generate control files in a network, the artisan would have looked to the computer network arts for details of implementing functions based on remote control files. In that art, Rogers, a related network browser, teaches "all processing of data is performed on the server, usually in the form of CGI programs using web

server APIs", col. 9, lines 58-60 in order to provide the required data or functionality. Rogers specifically teaches "the client processing is restricted to the browser displaying the data, or calling a helper application" at col. 9, lines 60-61. A browser that used outside software and dependent files is taught. In addition, Rogers teaches "the Java applet's execution is initiated by a web browser" and "the control agent [a second self contained software package] ... can communicate the results of the request ... to the Java applet [the first of many potential self contained software packages]", col. 10 and 11, lines 50-51 and 3-5, respectively. Further, Rogers suggests that "the restriction on client-side processing are addressed in general", col. 9, lines 65-66 will result from implementing the DIS. The motivation to incorporate a browser insures a user friendly interface. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the browser as taught in Rogers into the network described in Kito because Kito operates with computer networks and Rogers suggests that optimization can be obtained with browsers. Therefore, by the above rational, the above claims are rejected.

3. Regarding claims 2-4, 13-15, 22-25 and 31, Rogers teaches HTML files, executable files and JAVA, col. 10, lines 47-59. Thus, the above claim limitations are obvious in view of the combination.

4. Regarding claims 6-8, 18-20 and 27-29, Rogers teaches software and removable memory as local database, col. 11, line 40. Thus, the above claim limitations are obvious in view of the combination.

Response to Amendment

5. The broad claim language used is interpreted on its face and based on this interpretation

the claims have been rejected.

6. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

7. Applicant suggests "web site and/or web application" and "without having to cause the browser environment to access a remote server", Paper filed 11/26/04, Page 12-13, lines 21, 24-1. The above argument is not commensurate with what is presently claimed and therefore will not be considered at this time. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

8. Applicant suggests "because Rogers discloses that all the processing of data is performed on the server, and client processing is restricted to the browser", Paper filed 11/26/04, Page 14, lines 13-14, Rogers is insufficient. However, Rogers discloses "the Java applet's execution is initiated by a web browser", col. 10, lines 50-51 and after data or an archive is received by the browser "the client processing is restricted to the browser displaying the data ", col. 9, lines 60-61 as is presently claimed in a browser environment. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. A close review of the Hamzy reference with Patent Number 6,623,527 and Ahlberg et al. reference with Patent Number 6,587,836 are suggested. The other references cited teach numerous other ways to perform browser processing, thus a close review of them is suggested.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

3. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (571)272-3890. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571)272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

6. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-2100.

sfw

June 22, 2005

Andrew Caldwell

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER